

REMARKS

The amendments to Claims are intended to better distinguish the subject matter sought to be patented from the cited prior art. Basis for the amendments can be found in the specification, specifically at page 5, lines 34-35, and in the wording of the claims as originally filed. As such it is felt that the amendment does not constitute the introduction of new matter.

At present the specification is objected to for improper trademark usage. As amended the specification now uses Abscent[®] 3000 as a trademark and as such it is felt that there is a basis for the withdrawal of this objection. Such action is requested.

At present, Claims 1, 4, 7-9, 11, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over a patent issued to Nakamura (U.S. 6,179,141), in view of a patent issued to Kaizuka (U.S. 5,950,435). Reconsideration of this rejection is requested.

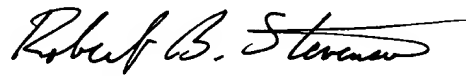
In asserting the above rejection Office Action takes the position that the process being claimed is obvious over the admitted state of the prior art in view of Nakamura read in light of Kaizuka. The Office Action then states that the reason for the prior art to motivate the skilled artisan to make the combination needn't be that which motivates the applicant to invent. The difficulty with this type of reasoning can now be seen in view of a specific difference relative to the amended claim language. Literally, the temperature of the Nakamura hot packaging process is well above the now recited about 20 to 50°C range for sterilization using ozone. In view of this difference it is respectfully submitted that such a combination is pure hindsight prompted by Applicant's disclosure and cannot serve as a basis for supporting a *prima facie* showing of obviousness. As such, it is felt that there is a clear basis for the withdrawal of this rejection and such action is requested.

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In view of the above amendment to Claim 1 and subsequent claims and brief remarks, it is felt that all claims are now allowable and such action is requested. Should the Examiner believe that an interview or other action in Applicant's behalf would expedite prosecution of the application, the Examiner is urged to contact Applicant's attorney by telephone at (302) 992-6824.

Respectfully submitted,



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